Remarks

The Claim Amendments

Applicants have amended claim 1 to recite that the template is five nucleotides long. Support may be found throughout the specification. See, e.g., page 3, lines 21-25. Applicants have amended claims 2-12, 14-15 and 17-19 to improve their form and/or correct claim dependency. Support may be found in the originally-filed claims. Applicants have further amended claim 5 to correct a misspelling. Applicants have amended claim 13 to more clearly define the claimed subject matter. Support may be found in originally-filed claims 5 and 13 and on page 11, lines 1-18. Applicants have added claims 20-24. Support for added claims 20-22 may be found on page 11, lines 19-28 and on page 12, lines 2-4 and 13-18. Support for added claim 23 may be found on page 2, line 31 to page 3, line 5. Support for added claim 24 may be found on page 4, lines 3-6.

None of these amendments adds new matter. Their entry is requested.

The Restriction Requirement

The Examiner has required restriction under 35 U.S.C. §121 to one of the following inventions:

I. Claims 1-4, drawn to a replicase complex comprising an HCV NS5B protein, a nucleic acid and a primer; and

II. Claims 5-19, drawn to an assay system to detect HCV replicase activity.

The Examiner states that Groups I and II are unrelated becaues the different inventions possess different products and are not disclosed as being capable of use together. The Examiner also states that the replicase complex of Group I and the assay system of Group II have different modes of operation. Applicants traverse.

The Manual of Patent Examining Procedure (MPEP) §803 states that there are two criteria for a proper requirement for restriction between patentably distinct inventions: (a) the inventions must be independent or distinct as claimed; and (b) there must be a serious burden on the Examiner if restriction is required. In this case, there is no serious burden to examine all of the claims together.

Both the replicase complex of Group I and the assay system of Group II recite an HCV NS5B protein, a nucleic acid template and a complementary nucleic acid primer. In addition, as disclosed in the specification, the assay system of Group II can form a replicase complex encompassed by the claims of Group I. See, e.g., page 3, lines 6-9 and page 4, lines 3-6. Thus, a search for the assay system and method of Group II will overlap extensively with a search for the replicase complex of Group I, such that it will not be an undue burden for the Examiner to search these claims together.

In the event that applicants' arguments are not persuasive, applicants elect Group II for examination. Claims 5-22 and 24 read on Group II.

Applicants note that claim 24 links the invention of Group II and that of Group I. Applicants submit that upon allowance of claim 24, the restriction requirement should be withdrawn and Group I examined. See MPEP §809.

Conclusion

Applicants request that the Examiner allow the pending claims and pass this application to issue.

If the Examiner should have any questions regarding this response or application, she is encouraged to contact the undersigned agent.

Respectfully submitted,

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